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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,988	11/16/2000	Tomo Ueno	SUGI:093	3887

7590

09/03/2002

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EXAMINER

CHEN, BRET P

ART UNIT

PAPER NUMBER

1762

DATE MAILED: 09/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.
09/646,988

Applicant(s)

Tomo Ueno

Examiner

Bret Chen

Art Unit

1762

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED Aug 22, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
of the reasons listed on the following pages.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____
- Claim(s) objected to: _____
- Claim(s) rejected: _____
- Claim(s) withdrawn from consideration: _____
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

BRET CHEN
PRIMARY EXAMINER
ART UNIT 1762

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The Request for Reconsideration dated 8/22/02 has been considered but is not deemed persuasive.

Applicant argues that the term "metastable" is disclosed on pp.5-6 of the specification (paragraph bridging pp.1-2).

The examiner disagrees. The examiner is unable to find anywhere on said pages the use of said term. Hence, the term is still deemed new matter.

Applicant next argues that Matsui fails to teach krypton and xenon having an excited metastable state (p.3 lines 5-9).

The examiner disagrees. It is noted that Matsui discloses a plasma-excited rare gas (col.4 lines 27-31) and that the gas mixture can be in the metastable state (lines 58-65). It is the examiner's position that the claimed limitation reads on the cited reference.

Applicant next argues that Ueno fails to teach krypton and xenon having an excited metastable state (p.4 lines 8-16).

The examiner disagrees. It is noted that Ueno fairly teaches a rare gas in a metastable state (col.2 lines 7-12 and 37-44). The examiner contends that Ueno meets the applicant's claim.

Applicant's arguments have been considered but are not deemed persuasive.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bret Chen whose telephone number is (703) 308-3809. The examiner can normally be reached on Monday through Thursday from 6:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck, can be reached on (703) 308-2333. The fax phone number for this Group is (703) 872-9310. Amendment After Finals should be faxed to (703) 872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

bc
August 30, 2002



BRET CHEN
PRIMARY EXAMINER